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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,044	06/29/2006	James Wilfred Forbes	200405.00020	5664

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EXAMINER

MCCARRY JR, ROBERT J

ART UNIT	PAPER NUMBER
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3617

NOTIFICATION DATE	DELIVERY MODE
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04/01/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@hahnlaw.com
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Office Action Summary	Application No. 10/564,044	Applicant(s) FORBES ET AL.	
	Examiner ROBERT J. MCCARRY JR	Art Unit 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 71-194 is/are pending in the application.
- 4a) Of the above claim(s) 95-194 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 71-94 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/14/07, 8/23/07, 12/15/06</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- A. Claims 71-94, drawn to a self steering truck with bearing adapters, classified in class 105, subclass 218.1.
- B. Claims 95-122, drawn to a railroad truck having friction dampers, classified in class 105, subclass 159.
- C. Claims 123-148, drawn to a railroad truck having friction dampers, classified in class 105, subclass 159.
- D. Claims 149-169, drawn to a three piece railroad truck having suspension dampers, classified in class 105, subclass 453.
- E. Claims 170-176, drawn to a three piece railroad truck having a transverse bolster, classified in class 105, subclass 193.
- F. Claim 177, drawn to a railroad truck having a rated load and stiffness, classified in class 105, subclass 157.1.
- G. Claim 178, drawn to a railroad freight car wheelset, classified in class 105, subclass 182.1.
- H. Claims 179, drawn to a kit of parts for retrofitting a railcar, classified in class 105, subclass 463.1.
- I. Claims 180-183, drawn to a railroad car truck having a bolster and co-operating sideframes, classified in class 105, subclass 182.1.

- J. Claims 184-189, drawn to a sideframe axle pedestal bearing, classified in class 105, subclass 218.2.
- K. Claims 190-194, drawn to a railroad car truck, classified in class 105, subclass 157.1.

The inventions are distinct, each from the other because of the following reasons:
The inventions listed above are distinct from each other since they are drawn to various smaller components or features of a larger wheelset or underframe of a railcar. For example pedestal bearings and bolsters are not limited to use in railcar wheelsets and can be used in a variety of vehicle frame assemblies.

The Applicant has set forth the above grouping for restriction in the Preliminary Amendments filed on October 28, 2007. The Applicant has also included remarks for the basis of the Restriction requirement and should the Examiner make such a requirement then the Applicant has proposed to elect the claims of Group A, including claims 71-94, so that further prosecution may continue without delay and the remaining claims have been removed from consideration.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 72-75 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 72 recites “the self steering apparatus fitting of claim 71 wherein said fitting is the bearing adapter of part (a).” It is unclear how the fitting can be the bearing adapter of part (a) when part (a) recites a bearing adapter for use in combination with at least one other fitting. It is unclear to the Examiner if the bearing adapter and the fitting are two separate parts or one in the same.

Claim 74 recites “the self steering apparatus fitting of claim 71 wherein said fitting is the pedestal seat of part (b).” It is unclear how the fitting can be the pedestal seat of part (b) when part (b) recites a pedestal bearing for use in combination with at least one other fitting. It is unclear to the Examiner if the pedestal bearing and the fitting are two separate parts or one in the same.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 71-94 are rejected under 35 U.S.C. 102(b) as being anticipated by List (US 4,483,253).

List discloses a self steering, flexible railway car truck comprised of a pair of sideframe, each sideframe having pedestal jaws for receiving a roller bearing in the pedestal jaw. An elastomeric pad 14 serves as a pedestal seat for the bearing adapter 6 and the roller bearings. The pedestal jaw allows for the pedestal seat 14 and bearing adapter 6 to be received in the jaw with a fore and aft clearance to allow for relative

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yawing motion of the truck relative to the self steering of the assembly. A yielding pad is provided between the bearing and the base of each jaw assembly and a transverse plank is installed between the sideframes to restrain fore and aft movement of the sideframe and is torsionally flexible to permit motion of the sideframes to cooperate with the self steering of the truck. The self steering of the truck is highlighted in claim 1 of the reference.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT J. MCCARRY JR whose telephone number is (571)272-6683. The examiner can normally be reached on Monday through Friday 7:00am to 3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joseph Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. Joseph Morano/
Supervisory Patent Examiner, Art Unit 3617

/R. J. McCarry Jr./
Examiner
Art Unit 3617

RJM
March 25, 2008